

means for disrupting water flow, said disrupting means coupled with said sidewall section.

26. The livewell tank of claim 25 further comprising an overflow drain coupled with said sidewall section proximate said covering means wherein said disrupting means is positioned between said overflow drain and said bottom proximate said overflow drain.

27. The livewell tank of claim 26 wherein said sidewall section includes a front wall directed in the direction of forward motion of the boat wherein said drain is coupled with said front wall.

#### Remarks

Reconsideration of the present application is respectfully requested. Claims 1, 2-4, 8, 9, 11, 12-14, 18, 19 and 21 have been amended. Claims 10 and 20 have been canceled. Claims 22-27 have been added. Claims 1-9, 11-19 and 21-27 are pending in the application.

The drawings were objected to under 37 C.F.R. § 1.83(a) on the basis that the interior compartment, the first surface, the second surface and the peripheral edge were claimed but not shown. Likewise, the specification was objected to under 37 C.F.R. § 1.75(d)(1) as failing to provide proper basis for the interior compartment, the first surface, the second surface and the front sidewall. In response to the objections, applicants have amended the original claim language so that the claims are consistent with the specification. Specifically, "first surface" of claims 1, 2, 8, 9, 12, 13 and 19 has been replaced with "upper surface" as set forth in the detailed description and drawings as upper surface 52. "Second surface" of claims 8 and 18 has been replaced with "ledge surface"

as set forth in the detailed description and drawings as ledge surface 50. "Front sidewall" of claims 4 and 14 has been replaced with "front wall" as set forth in the detailed description and drawings as front wall 18. The term "peripheral edge" was unnecessary for claiming the invention and has been deleted. These claim amendments were made based on the Examiner's objections, and not for reasons related to patentability.

The term "interior compartment" is set forth in the specification at the paragraph starting on page 4, lines 11, with respect to the bottom, top and sidewall section of the tank. In the interest of clarity, reference numeral 15 has been assigned to the interior compartment in both the specification and the drawings. A proposed drawing amendment is being filed herewith. Finally, the improper reference to Fig. 1 was corrected on page 4. Applicants submit that the remaining objections have been overcome based on these changes.

Claims 1, 2, 12, 13 and 20 were rejected under 35 U.S.C. § 112. Claims 1 and 12 have been amended to recite "a fish" rather than "the fish." Likewise, claims 2 and 13 have been amended to recite "said compartment" as first recited in independent claims 1 and 12. Claims 10 and 20 have been canceled.

The Examiner rejected each of the pending claims as obvious over U.S. Patent No. 3,553,880 to Splickan ("the Splickan patent") in view of U.S. Patent No. 2,966,002 to Hobson et al. ("the Hobson patent").

The invention of claim 1 relates to a livewell tank having an interior compartment defined by a bottom and a sidewall section extending from the body. The tank includes a top forming an opening for receiving fish and having an upper surface projecting inwardly to cover a portion of the compartment. An overflow drain is coupled with the sidewall section proximate the top. By providing a construction in accordance with claim 1, numerous advantages are realized. For

example, the livewell tank may be operated at full or nearly full volume. Thus, turbulent flow within the tank is drastically reduced to maintain the fish held within the livewell in a safe environment.

None of the references, when considered either singly or in combination, show or suggest a livewell tank with a top covering a portion of the opening, and an overflow drain located proximate the top. The Splickan patent is directed to a container for holding fish having an opening leading to a flexible duct through which fish are placed into the container. The Hobson patent is directed to a bait tank with a circulation tube having an inlet disposed below the boat hull and an outlet on the rear of the tank. As water flows through the tube, some of the water flows into the tank through any of a number of discharge apertures located along the length of the tube.

The invention of claim 1 requires a top covering a portion of the compartment and an overflow drain located proximate the top. In the rejecting the claim, the Examiner relied upon Hobson for the teaching of an overflow drain, and stated that it would be obvious to substitute the drain of Hobson for the drain of Splickan because “one drain is being substituted for another and the function is the same.” However, the tube 40 in the Splickan patent is used for circulating water through the tank, and not as an overflow drain. As discussed above, water flows upwardly from the surrounding body of water and through the tube and into the tank. If anything, the tube introduces water into the tank rather than removing overflow water. Moreover, the Hobson patent teaches a drain plug 22 for removing all of the water in the tank, “particularly where ice may be placed therein, to cool fish or other articles in the container.” (Column 2, Lines 35-38.) Not only is the drain located at the base of the tank, but it is clearly not used for the purpose of discharging overflow. Thus, neither patent relied upon by the Examiner teaches an overflow drain. Additionally, the drain of Hobson and circulation tube of Splickan have different functions, and the patents otherwise lack any teaching or motivation that would lead one of ordinary skill to combine the references.

Therefore, applicants respectfully submit that the invention of claim 1 is patentable over the art of record.

Turning to the second set of claims, the invention of claim 12 relates to a livewell tank having an interior compartment defined by a bottom and a sidewall section extending from the body. The tank includes a top forming an opening for receiving fish and having an upper surface projecting inwardly from a portion of the sidewall section to cover a portion of the compartment. A baffle is coupled with the sidewall section and extends from the sidewall section inwardly into the interior compartment. The invention of claim 12 also prevents the harmful turbulence that leads to unnecessary damage or death to the fish housed within the tank.

As mentioned above, the Examiner also relied upon the combination of the Splickan and Hobson patent in rejecting claim 12 and those claims depending from claim 12. The Examiner's position is that the duct 39 of the Splickan patent is a baffle. However, the duct of the Splickan patent serves to grip fish so that they can be placed within the container more easily, and is not a baffle. Moreover, the claimed invention requires a top extending from the sidewall section to cover a portion of the compartment, and a baffle coupled with and extending from the sidewall section. Conversely, the duct 39 of the Splickan patent extends from the top of the container. In the Splickan patent, an ingress portion 33 and top portion 31 form the planar top of the tank. The duct 39 extends from the ingress portion 33 rather than the sidewall of the tank. (Figs. 1 and 3; Column 3, Lines 64-67.) In the present invention, the baffle extends from the sidewall section. The top and baffle, both of which extend from the sidewall section, work in combination to prevent turbulent flow from developing within the tank. Applicants respectfully submit that this combination is neither taught nor suggested in the prior art, and the invention of claim 12 is also patentable over the prior art.

Dependent claims 2-9, 11, 13-19 and 21 are further patentable over the art of record. For instance, the limitation of claims 4 and 14 that the drain be placed on the front wall of the tank is neither taught nor suggested in the prior art. As set forth above, the Splickan patent teaches a drain plug rather than an overflow valve. Also, the plug is located in an end wall of the box rather than a front or rear wall. Moreover, the circulation tube 40 of the Hobson patent is directed rearwardly of the direction of motion. Neither of the cited references contemplates an overflow drain located in the forward direction of the tank to prevent water from flowing from the tank as the stern of the boat lowers into the water. Thus, dependent claim 4 is neither taught nor suggested in the art of record, and should be allowed for this additional reason.

Claims 22-24 are directed to a livewell tank having an interior compartment defined by a bottom and a sidewall section extending from the body. The tank also has means for covering a portion of the compartment and means for draining water from the compartment. The draining means is located proximate the covering means. Claims 25-27 are directed to a livewell tank having an interior compartment defined by a bottom and a sidewall section extending from the body. The tank also has a covering means and means for disrupting water flow coupled with the sidewall section. Applicants respectfully submit that these claims are allowable over the prior art for reasons similar to those set forth above.

In summary, it is respectfully submitted that the application is in form for allowance and such allowance is respectfully requested. However, should the Examiner feel that unresolved issues remain in the case, the undersigned may be contacted at 1-800-821-7962 to arrange for an issue resolving conference.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned **“Version with markings to show changes made.”**

Applicants believe that this amendment is timely and no fee is due. However, the Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Account No. 19-2112. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William B. Kircher', written in a cursive style.

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## VERSION WITH MARKINGS TO SHOW CHANGES MADE

### In the specification:

The paragraph beginning at page 4, line 5 has been amended as follows:

--Fig. 2 is a fragmentary, horizontal cross sectional view of the livewell tank of Fig. 1 [2] illustrating the livewell assembled with the deck of the boat.--

The paragraph beginning at page 4, line 11 has been amended as follows:

--With reference to Figs.1 and 2, livewell tank 10 has a bottom 12, a top 14, and a sidewall section 16 extending between the bottom 12 and top 14 to define an interior compartment 15 for holding water. In a preferred embodiment, the tank is integrally molded from a durable plastic material such as a low weight polyethylene.--

The abstract paragraph of page 14 has been amended as follows:

--A livewell tank for use on a boat is provided having a bottom and a sidewall section forming an interior compartment. A top is coupled with [the upper edge of] the sidewall section and extends [extending] inwardly to cover the interior compartment about the periphery of the sidewall section. An overflow drain is located proximate the top of the tank and a baffle inhibiting turbulent flow is positioned between the overflow drain and the bottom of the tank.--

### In the claims

1. A livewell tank for use on a boat to hold fish, said tank [device] comprising:

<sup>12</sup>  
a bottom;

<sup>16</sup>  
a sidewall section having first and second opposing ends, said sidewall section coupled with [and upstanding from] said bottom at said first end to define an interior compartment<sup>15</sup>[, said sidewall presenting a peripheral edge at said second end];

<sup>14</sup>  
a top coupled with said second end of said sidewall section, said top forming an opening sized for receiving a [the] fish, said top having <sup>52</sup>an upper surface [a first surface] projecting

inwardly from said sidewall section [peripheral edge] to cover a portion of said interior compartment; and

an overflow drain<sup>35</sup> coupled with said sidewall section of said tank proximate said top.

2. The livewell tank of claim 1, wherein said upper [first] surface extends inwardly into said compartment completely about [the said peripheral edge of] said sidewall section [and inwardly into said container], said upper [first] surface terminating at an inner edge defining said opening.

3. The livewell tank of claim 2 wherein [said peripheral edge and] said opening is [are] generally rectangular.

4. The livewell tank of claim 1 wherein said sidewall section includes a front wall [sidewall] directed in the direction of forward motion of the boat wherein said drain is coupled with said front wall [sidewall].

8. The livewell tank of claim 1 wherein said top includes a ledge [second] surface extending outwardly from [said peripheral edge of] said sidewall section, said ledge [second] surface coupled with said upper [first] surface to form a mounting flange.

9. The livewell tank of claim 2 wherein said top further includes a sealing flange upstanding from said upper [first] surface.



Claim 10 has been canceled.

11. The livewell of claim 9 [10] wherein a collar is coupled with said sealing flange, said collar made of a resilient material.

12. A livewell tank for use on a boat to hold fish, said tank [device] comprising:

a bottom;

a sidewall section having first and second opposing ends, said sidewall section coupled with and upstanding from said bottom at said first end to define an interior compartment[, said sidewall presenting a peripheral edge at said second end];

a top coupled with said second end of said sidewall section, said top forming an opening sized for receiving a [the] fish, said top having an upper [first] surface projecting inwardly from a portion of said sidewall section [peripheral edge] to cover a portion of said interior compartment; and

<sup>38</sup>  
a baffle coupled with said sidewall section, said baffle extending from said sidewall section inwardly into said interior compartment.

13. The livewell tank of claim 12, wherein said upper [first] surface extends completely about [the said peripheral edge of] said sidewall section and inwardly into said compartment [container], said upper [first] surface terminating at an inner edge defining said opening.

14. The livewell tank of claim 12 wherein said sidewall section includes a front wall [sidewall] directed in the direction of forward motion of the boat wherein said drain is coupled with said front wall [sidewall].

15. The livewell tank of claim 14 wherein said baffle includes a lower, generally planar surface and an upper, curved surface.

18. The livewell tank of claim 12 wherein said top includes a ledge [second] surface extending outwardly from said sidewall section [edge], said ledge [second] surface coupled with said upper [first] surface to form a mounting flange.

19. The livewell tank of claim 18 wherein said top further includes a sealing flange upstanding from said upper [first] surface.

Claim 20 has been canceled.

21. The livewell of claim 19 [20] wherein a collar is coupled with said sealing flange, said collar made of a resilient material.

The following claims have been added:

22. A livewell tank for use on a boat to hold fish, said tank comprising:

a bottom;

a sidewall section having first and second opposing ends, said sidewall section coupled with said bottom at said first end to define an interior compartment;

means for covering a portion of said compartment, said covering means coupled with said sidewall section; and

means for draining water from said compartment, said draining means coupled with said sidewall section proximate said covering means.

23. The livewell tank of claim 22 wherein said sidewall section includes a front wall directed in the direction of forward motion of the boat wherein said draining means is coupled with said front wall.

24. The livewell tank of claim 23 further comprising means for disrupting water flow, said disrupting means coupled with said sidewall section.

25. A livewell tank for use on a boat to hold fish, said tank comprising:

a bottom;

a sidewall section having first and second opposing ends, said sidewall section coupled with and upstanding from said bottom at said first end to define an interior compartment;

means for covering a portion of said compartment, said covering means coupled with said sidewall section; and

means for disrupting water flow, said disrupting means coupled with said sidewall section.

26. The livewell tank of claim 25 further comprising an overflow drain coupled with said sidewall section proximate said covering means wherein said disrupting means is positioned between said overflow drain and said bottom proximate said overflow drain.

27. The livewell tank of claim 26 wherein said sidewall section includes a front wall directed in the direction of forward motion of the boat wherein said drain is coupled with said front wall.